

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK  
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3 SHEIKH SURAIVA,

4 Plaintiff,

5 v.

18 CV 6628 (JMF)

6 THOMAS CIOPPA and JEFFERSON  
7 SESSIONS,

8 Defendants.  
-----x

9 New York, N.Y.  
10 July 31, 2018  
2:30 p.m.

11 Before:

12 HON. JESSE M. FURMAN,

13 District Judge

14 APPEARANCES

15 DAVID RODKIN  
16 Attorney for Plaintiff

17 UNITED STATES ATTORNEY'S OFFICE  
FOR THE SOUTHERN DISTRICT OF NEW YORK  
Attorneys for Defendants  
18 BY: BRANDON MATTHEW WATERMAN

1 (Case called)

2 THE DEPUTY CLERK: Counsel, please state your name for  
3 the record.

4 MR. RODKIN: David Rodkin.

5 THE COURT: Good afternoon, Mr. Rodkin.

6 MR. WATERMAN: Assistant United States Attorney  
7 Brandon Waterman on behalf of the government.

8 THE COURT: Good afternoon, Mr. Waterman.

9 Let me thank you, Mr. Waterman. First I don't know if  
10 you would have been assigned to this case regardless, but in  
11 any event, I know that you stepped into it after my chambers  
12 contacted you in an effort to get somebody here on behalf of  
13 the government. So I appreciate your stepping in so quickly.

14 I got your letters of yesterday, the joint letter and  
15 petitioner's supplemental letter.

16 Mr. Rodkin, I'm going to be blunt. I don't think this  
17 is the proper jurisdiction for this case.

18 MR. RODKIN: Yes, Judge.

19 THE COURT: You agree?

20 MR. RODKIN: No. I understand.

21 THE COURT: I've ruled on this issue before in a case  
22 cited by Mr. Waterman, *Singh v. Holder*, 2012 WL 5878677,  
23 holding squarely in a case bringing pretty much the same exact  
24 nature of claim that the immediate custodian rule applies to  
25 challenges of this nature and that jurisdiction is proper only

1 in the district where the immigrant is detained.

2 I think applying that rule here, it's quite clear to  
3 me that this is properly brought in New Jersey and not properly  
4 brought here. I'm open to your arguments to the contrary. I  
5 read the summary of your arguments, and I just don't see how  
6 any of them gets you past that problem. It seems to me that  
7 that settles the matter.

8 Mr. Waterman proposes briefing a motion. Candidly, I  
9 think it's going to end up in the same place a month from now,  
10 and I'm trying to figure out why your client wouldn't just  
11 prefer to have the case transferred and proceed directly in New  
12 Jersey or dismissed and you can re-file it in New Jersey.

13 MR. RODKIN: The problem is she has to --

14 THE COURT: Can you use the microphone, please.

15 MR. RODKIN: The problem is she has to find new  
16 counsel in New Jersey, and that's very difficult for her.

17 THE COURT: I certainly understand that, and I'm  
18 sympathetic. I understand from your letter that you're not  
19 admitted in New Jersey and, therefore, couldn't represent her  
20 there.

21 I imagine you could help her find new counsel, and the  
22 fact that you're not admitted in New Jersey is not a basis for  
23 me to exercise jurisdiction in a case where the law says that I  
24 don't have jurisdiction.

25 I think in fact my order misspoke in referring to it

1 as an issue of venue. I think it's really a jurisdictional  
2 issue. I just don't see the basis to proceed here.

3 MR. RODKIN: Okay, Judge.

4 THE COURT: Would you prefer that I transfer it, or  
5 would you prefer that I dismiss it?

6 MR. RODKIN: I'd prefer you transfer it, Judge.

7 THE COURT: Mr. Waterman, I assume no objection to  
8 granting the relief that you're going to seek this week?

9 MR. WATERMAN: No objection, your Honor.

10 THE COURT: I am going to transfer it pursuant to my  
11 opinion in *Singh*. I do conclude that I lack jurisdiction and  
12 that jurisdiction is proper only in the jurisdiction of New  
13 Jersey. To save time and trouble, I'll order that the case be  
14 transferred to that district. I'll enter an order districting  
15 the clerk to do so forthwith.

16 MR. RODKIN: What district is that in New Jersey  
17 you're transferring it to, Judge?

18 THE COURT: There is only one district in New Jersey.

19 MR. RODKIN: The district court in New Jersey.

20 THE COURT: Correct. I don't know what courthouse it  
21 is. I don't know how they do things over there. I'll leave  
22 that to you all to figure out.

23 MR. RODKIN: Okay.

24 THE COURT: Thank you very much. We are adjourned.

25 MR. WATERMAN: Thank you, your Honor.